

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES EUGENE FRAY,
aka James Anthony Fray,

Defendant.

CR 13–49–M–DWM

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on December 20, 2013. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

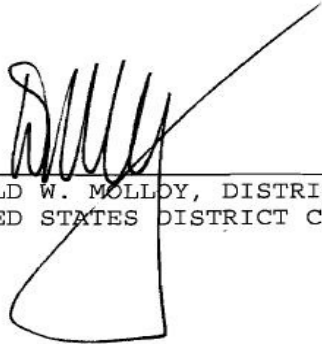
McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept James Eugene Fray's guilty plea after Fray appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of being a felon in possession of firearms in violation of 18 U.S.C. §§ 922(g)(1) as set forth in Count I of the Indictment. Defendant further agrees to the forfeiture of the personal property items as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Count II of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 25), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that James Eugene Fray's motion to change plea (Doc. 19) is GRANTED.

DATED this 7th day of January, 2014.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT